

DAVID BAKER (153445)
Attorney at Law
419 19TH STREET
San Diego, California 92102
Telephone: (619) 743-0121
Fax: (619) 238-0144

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
(HON. IRMA E. GONZALEZ)

UNITED STATES OF AMERICA,)	No. 07-CR-3220-IEG
)	NOTICE OF MOTIONS AND MOTIONS FOR:
Plaintiff,)	1) PRODUCTION OF BRADY MATERIAL;
)	2) DISCOVERY; AND
vs.)	3) LEAVE TO FILE FURTHER MOTIONS
)	
JOSE VILLALOBOS,)	DATE: JANUARY 14, 2008
)	TIME: 2:00 P.M.
Defendant.)	
_____)	

TO: KAREN HEWITT, UNITED STATES ATTORNEY, AND CARLA BRESSLER, THE ASSISTANT UNITED STATES ATTORNEY:

PLEASE TAKE NOTICE that on JANUARY 14, 2008 at 2:00 p.m., or as soon thereafter as counsel may be heard, the defendant, JOSE VILLALOBOS, by and through his counsel, David . Baker, will move this Court to issue an order granting the motions listed below.

MOTIONS

The defendant, Jose Villalobos, by and through counsel, David Baker, asks this Court pursuant to the United States Constitution and Fed. R. Crim. P. 12, 16 and 26, and all other applicable statutes and local rules for an order to:

- 1) Produce all Brady Material;
- 2) Compel Discovery; and for
- 3) Leave to File Further Motions.

These motions are based upon the instant motions and notice of motions, the attached statement of facts and memorandum of points and authorities, the files and records in the above-captioned matter, and any and all other materials that may come to this Court's attention prior to or during the hearing of these motions.

Respectfully submitted,

Dated: December 31, 2007

____s/baker_____
DAVID BAKER
Attorney for Villalobos

Johnson, 525 F.2d 999 (2d Cir. 1975), cert. denied, 424 U.S. 920 (1976); United States v. Lewis, 511 F.2d 798 (D.C. Cir. 1975); United States v. Pilnick, 267 F. Supp. 791 (S.D.N.Y. 1967); Loux v. United States, 389 F.2d 911 (9th Cir.), cert. denied, 393 U.S. 867 (1968). Arrest reports, investigator's notes, memos from arresting officers, dispatch tapes, sworn statements, and prosecution reports pertaining to the defendant are available under Fed. R. Crim. P. 16(a)(1)(B) and (C), Fed. R. Crim. P. 26.2 and 12(I);

(3) Brady Material The defendant requests all documents, statements, agents' reports, and tangible evidence favorable to the defendant on the issue of guilt and/or which affects the credibility of the government's case. Impeachment as well as exculpatory evidence falls within Brady's definition of evidence favorable to the accused. United States v. Bagley, 473 U.S. 667 (1985); United States v. Agurs, 427 U.S. 97 (1976);

(4) Any Proposed 404(b) Evidence Evidence of prior similar acts is discoverable under Fed. R. Crim. P. 16(a)(1)(C) and Fed. R. Evid. 404(b) and 609. In addition, under Fed. R. Evid. 404(b), "upon request of the accused, the prosecution . . . shall provide reasonable notice in advance of trial . . . of the general nature . . ." of any evidence the government proposes to introduce under Fed. R. Evid. 404(b) at trial. The defendant requests that such notice be given three weeks before trial in order to give the defense time to adequately investigate and prepare for trial;

(5) Jencks Act Material The defense requests all material to which defendant is entitled pursuant to the Jencks Act, 18 U.S.C. § 3500, reasonably in advance of trial, including dispatch tapes. A verbal acknowledgment that "rough" notes constitute an accurate account of the witness' interview is sufficient for the report or notes to qualify as a statement under §3500(e)(1). Campbell v. United States, 373 U.S. 487, 490-92 (1963). In United States v. Boshell, 952 F.2d 1101 (9th Cir. 1991), the Ninth Circuit held that when an agent goes over interview notes with the subject of the interview the notes are then subject to the Jencks Act. The defense requests pre-trial production of Jencks material to expedite cross-examination and to avoid lengthy recesses during trial;

(6) Giglio Information Pursuant to Giglio v. United States, 405 U.S. 150 (1972), the defendant requests all statements and/or promises, express or implied, made to any government witnesses, in exchange for their testimony in this case, and all other information which could arguably be used for the impeachment of any government witnesses.

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LEAVE TO FILE FURTHER MOTIONS

Due to the fact that it is unknown to the defendant at this time what new evidence may arise as a result of investigating this case, the defendant requests that this Court allow him an opportunity to file any additional motions that may become necessary.

CONCLUSION

For the foregoing reasons, Jose Villalobos respectfully requests that this Court grant these motions.

Respectfully submitted,

____s/baker_____

DAVID BAKER

Attorney for Villalobos

Dated: December 31, 2007

CERTIFICATE OF SERVICE

I declare that I am over the age of eighteen years and not a party to the cause. I have electronically served all parties to the above captioned case.

Executed on December 31, 2007

s/ Baker
David Baker